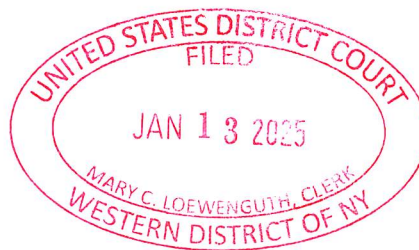


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DIAMOND LEWIS,

Petitioner,

v.

SUPERINTENDENT ECKERT,

Respondent.

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21-CV-1022 (JLS) (MJR)

### **DECISION AND ORDER**

Petitioner Diamond Lewis commenced this action pursuant to 28 U.S.C. § 2254 seeking a Writ of Habeas Corpus by a Person in State Custody. Dkt. 1. He alleges that, on October 28, 2016, he was convicted in Erie County Court of various offenses—including murder, attempted murder, criminal possession of a weapon, and assault—in violation of his constitutional rights. *See id.* at 1. Respondent filed an Answer and a memorandum in opposition. Dkt. 15, 16. Petitioner did not reply. This Court referred the case to United States Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. §§ 636(b)(1)(B) and (C). *See* Dkt. 17.

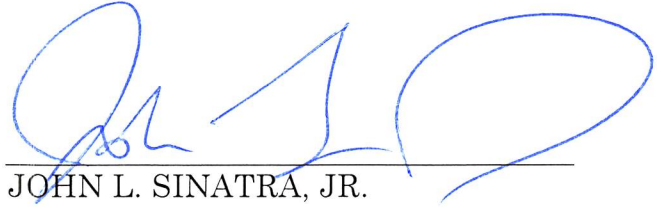
On December 2, 2024, Judge Roemer issued a Report and Recommendation (“R&R”) recommending that this Court deny the Petition in its entirety. *See* Dkt. 19 at 29. He further recommended that this Court deny a certificate of appealability because Petitioner “failed to make a substantial showing of a denial of a constitutional right.” *Id.* Neither party filed objections, and the time to do so has expired.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R and the relevant record. Based on that review, the Court accepts and adopts Judge Roemer's recommendation. Thus, for the reasons stated above and in the R&R, the relief sought in the Petition is DENIED and the Petition is DISMISSED. Further, because Petitioner failed to make a substantial showing of the denial of a constitutional right, see 28 U.S.C. § 2253(c)(2), the Court DENIES a certificate of appealability. The Clerk of Court shall close this case.

SO ORDERED.

Dated: January 13, 2025  
Buffalo, New York



JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE